IN THE HIGH COURT OF JUDICATURE AT BOMBAY

COMPANY PETITION NO. 672 OF 2003

In the matter of security and
Personnel Service P. Ltd

K.K.V. Kurup ..... Petitioner

K.K.V. Kurup for the petitioner in person.
Shri D.D. Madon i/b. M.V. Jaykar and Co. for the respondent company.

CORAM: S.U. KAMDAR, J.
DATE : 20TH JANUARY, 2005.

P.C. ;

1.The present petition has been filed by the petitioner who is in person and is an advocate of this court.

2. The claim of the petitioner in the present case is for his fees for rendering professional services. According to the respondent company the petitioner was engaged as a retainer and has been substantial fees from time to time, details of which are set out at Exhibit-1 to the Affidavit in reply. According to the petitioner though he has received the said amount which comes to around Rs.4,45,566/- still he is entitled to the balance amount of Rs.2,90,000/- i.e. his outstanding professional fees apart from retainer charges.

3. In the present petition it is an admitted position that inspite of repeated requests made by the respondent company from time to time the petitioner is holding over the paper and proceedings in respect of the various matter which are pending before this court,. The matter was heard on the last occasion on 14.1.2005. After hearing the matter for some time I orally informed the petitioner that at the first instance he must hand over the paper and proceedings of the various matters which are pending

in different courts to the respondent company and he should hand over the same before for his alleged claim of professional fees is considered. It is because I found inappropriate for a lawyer to hold over the court papers on the allege non-payment of his professional fees. I adjourned the mattter accordingly today to facilitate him to hand over the papers and proceedings to the company.

4. Mr. Madon learned counsel appearing for the respondent company has handed over a letter dated 14.1.2005 of his attorneys which has been delivered to the office of the petitioner’s advocate on 17.1.2005 inter-alia stating therein the date and place where the respondents advocate can visit and collect the said papers. The said letter dated 14.1.2005 has been taken on record. The petitioner on the other hand has tendered a letter dated 15.1.2005 purported to have been sent under U.P.C. to the respondent company directly at their office and offered to hand over papers at his residence at Santacruz on 19.1.2005. There is no acknowledgement of the said letter by the respondent company.

Learned counsel appearing for the petitioner has not produced any acknowledgement of the said letter dated 15.1.2005 and except the receipt indicating that the said letter is sent by UPC there is nothing else. The respondent company has denied the receipt of this letter. The fact tht the letter of respondent attorney's is received by the petitioner is not denied. Inspite of the receipt of the said letter he did not hand over the paper and proceedings but has purpotedely relied upon such UPC posting of the said letter. The conduct of the petitioner in the aforesaid circumstances is nothing but totally unpotentional. The whole attempt is to see that papers of the court proceedings are not handed over and used as a leverage to obtain the the professional fees as per his demand.

5. In the aforesaid circumstances I once again asked the petitioner who is appearing in person whether he would be willing to hand over the paper and proceedings to the respondent company advocate even today. However the learned counsel has flatly refused to do so.

6. The learned counsel has however contended that the matter should be transferred from this court to some other court. He has also stated that he desires to move to the Hon’ble Chief Justice for transfer of the matter to another court and for lodging a complaint against the court. I do not find any reason for transferring the present matter to other courts especially when this court has been assigned with company matters and decide the same on its merits. In view thereof I proceed with the matter.

7. In the present case there is no document to indicate that the said amount claimed by the petitioner is payable by the respondent over and above the amount of professional fees already paid to him. On the other and the respondent advocates contends that already a large amount has been paid to petitioner amounting to Rs.4,45,566/-. In view thereof nothing is payable by the respondent to the petitioner. I find that there are bonafide disputes in the present petition. I also find that the

conduct of the petitioner of not handing over the paper and proceedings is totally non professional, unethical and contrary to the judgment of the Supreme Court judgment reported in **2001 C.C. page 83 Vol.105 R.D. Saxena vs. Balram Prasad Sharma** and I accordingly dismiss the present petition. Petition accordingly dismissed with cost.

sd/-

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